

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Bryan Mueller,
Appellant,

v.

Black Hawk County Board of Review,
Appellee.

ORDER

Docket No. 13-07-0434
Parcel No. 8913-28-129-005

On December 13, 2013, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Bryan Mueller was self-represented and requested his appeal proceed without a hearing. Assistant County Attorney David J. Mason represented the Board of Review. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Bryan Mueller is the owner of property located at 1801 Sager Avenue, Waterloo, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$120,750, representing \$21,290 in land value and \$99,460 in improvement value.

Mueller protested to the Board of Review claiming the property was inequitably assessed under Iowa Code section 441.37(1)(a)(1) and that the property was assessed for more than authorized by law under section 441.37(1)(a)(2). He asserted the correct value was \$70,000. The Board of Review granted the protest, in part, and reduced the assessment to \$95,000.

Mueller then appealed to this Board reasserting his claim of over-assessment.

The property record card indicates the subject is a one-story, frame home built in 1954. It has 960 square feet of above-grade living area and a full, unfinished basement. Additional features include

a 220 square-foot breezeway; an 80 square-foot covered patio; a 308 square-foot detached garage attached to the breezeway; as well as a 528 square-foot detached garage built in 1992. The site is 0.234 acres.

Mueller states he purchased the property for \$70,000 one year ago and believes that is what it is worth. The property record indicates Mueller purchased the property in April 2012 for \$69,900. The Board of Review submitted a letter from Black Hawk County Assessor Tami McFarland. McFarland states the sale of the subject property was from an estate. She therefore believes the sale was not an arm's length transaction the Department of Revenue would use for analysis in equalization. She attached a Declaration of Value (DOV) page, which shows the sale was from an estate.

To support his claim, Mueller submitted a mortgage appraisal completed by Clinton Cota of Rally Appraisal, LLC, Cedar Falls, Iowa. Cota developed only the sales comparison approach to value concluding an opinion of \$78,000, as of March 13, 2012. Cota included four comparable sales of similar age and style properties, all located within less than a mile of the subject property. The sales occurred between May 2011 and January 2012. After adjusting for differences, Cota determines a range of value between roughly \$75,000 and \$83,000.

We note Cota identified Sale #1 as a Real Estate Owned (REO) property. He did not make adjustments for this condition. We also note Sale #2 was an estate sale, which may have impacted the sales price. Removing these sales from consideration does not change his adjusted range of value. However, Sales #3 and #4 occurred in June and May 2011 respectively and are arm's length transactions. As previously noted, the effective date of the appraisal is early 2012, approximately nine months prior to the assessment. Although Mueller has presented an appraisal, it is somewhat dated and in this case the record shows there are more recent sales of comparable properties.

Mueller also submitted four MLS sheets to the Board of Review. The following chart summarizes the sales.

| Address | Gross Living Area (GLA) | Basement/Finish | Garage | Date of Sale | Sale Price |
|-----------------|-------------------------|-----------------|---------|--------------|------------|
| Subject | 960 | Full/No Fin | 3 Stall | Apr-12 | \$69,900 |
| 1299 Scott Ave | 768 | Full/768 Fin | 2 Stall | Aug-12 | \$80,000 |
| 1819 Sager Ave | 912 | Full/150 Fin | 1 Stall | Nov-12 | \$97,500 |
| 4004 Richard Dr | 988 | Full/500 Fin | 2 Stall | Nov-12 | \$85,000 |
| 3306 Scenic Dr | 912 | Full/800 Fin | 2 Stall | Jan-13 | \$108,000 |

Mueller did not offer any other information for these four properties and he did not make any adjustments for differences between these comparables and his property.

McFarland submitted comments regarding Mueller's comparables. She states 4004 Richard Drive and 3306 Scenic Drive are not located in the same area as the subject property and for this reason she does not consider them comparable. McFarland's spreadsheet also indicates none of the properties have basement finish, however all of the MLS sheets indicate between 150 square feet and 768 square feet of finish for the comparable properties. McFarland's spreadsheet makes adjustments for differences; however, we cannot determine these are market-based adjustments as compared to cost adjustments. For instance, an upward adjustment of \$2020 was made between the subject and the property located at 1819 Sager Avenue for a difference of 48 square feet of basement area. We are skeptical the market would recognize this minor difference.

The Board of Review also submitted three comparable properties located in the same area as the subject property. All three sales occurred in 2012. The following chart summarizes the sales.

| Address | GLA | Basement/Finish | Garage | Date of Sale | Sale Price | Adjusted Sale Price |
|----------------------|-----|-----------------|--------|--------------|------------|---------------------|
| Subject | 960 | Full/No Fin | 836 SF | Apr-12 | \$69,900 | |
| 1225 Doreen Ave | 948 | Full/No Fin | 576 SF | Jun-12 | \$83,000 | \$100,340 |
| 1225 St. Andrews Ave | 936 | Full/No Fin | 528 SF | Aug-12 | \$100,000 | \$116,750 |
| 1819 Sager Ave | 912 | Full/No Fin | 440 SF | Nov-12 | \$97,500 | \$114,600 |

While the Board of Review adjusted these sales for difference, we again question some of the adjustments as representing market actions versus cost adjustments. While we are unconvinced all of

the adjustments are reflective of market actions, in this instance, we find the adjustments were of minimal overall impact and the properties provided by the Board of Review are the most similar and the most recent.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the appellant has a two-fold burden. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). First, the appellant must show that the

assessment is excessive. Iowa Code § 441.21(3); *Boekeloo*, 529 N.W.2d at 276-77. Second, the appellant must provide evidence of the property's correct value. *Boekeloo*, 529 N.W.2d at 276-77.

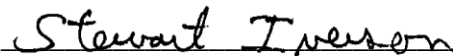
Mueller submitted four sales of properties, however did not adjust them for differences. For this reason, we find these sales cannot be relied upon to support Mueller's claim that his property is over assessed. Mueller also submitted an appraisal from Clinton Cota of Rally Appraisal, LLC, which had an effective date of March 2012. Cota concluded a final opinion of value of \$78,000; however, one sale was an REO, similar to a foreclosure, which are not arm's length and he failed to make adjustments for this distorting factor. Another sale was an estate sale like the subject's purchase. We find there is insufficient evidence to determine whether this sale would be arm's length under the law. The sales price in an abnormal transaction is not to be taken into account unless the distorting factors can be clearly accounted for. Iowa Code § 441.21(1)(b). The remaining sales Cota considered both occurred in 2011, and we find them less persuasive than those provided and adjusted by the Board of Review. The more recent sales suggest the appraisal's effective date should not be relied upon.

THE APPEAL BOARD ORDERS the assessment of the Bryan Mueller's property located at 1801 Sager Avenue, Waterloo, Iowa, as set by Black Hawk County Board of Review is affirmed.

Dated this 14th day of January, 2013.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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